G. R. S. IX-5].

Previous references

Preserve

1919-20

(LB.) for

File No. 97-19

Serial Nos. 1 & 2

10 X 41

Later references.

LB 104-2681-2

Preserved

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 & 2

Part B for July 1920

SUBJECT.

Levy of local cess on items of Revenue directly credited to the District Funds.

8(1) From the President, Dt. Board, Mysore.
C. 2830 & 16-1-20

Soliciting instructions on the levy of local cess on the sale of Manure as the same objected to by the Audit Department.

8(2) To the President, Dist. Bd Mysore
" D.C.s of other Dts
" Comptroller to Govt.
88-96 Dy. 3-7-20

Directs that in future no local cess shall be levied on the several items of income credited to Dist. Boards.

Mr. Abdur Rahman
33/8/20

WD 788—GPB—5,000—7/40

G. R. S. III—1]

1919-20

GENERAL AND REVENUE SECRETARIAT.

(Zk)

NOTES.

File No. 97-19

FILE HEADING.

Levy of local cess on items of revenue directly credited to Dt. funds

From

The Pres^t, Dt. Board, Ingeve

No. C 2830 Dated 16-1-20 Received 19-1-20

Diary No. 5250	Enclos.	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that objection has been taken by the Audit dept to the levy of local cess on sale proceeds of manure (2) tolls levied on toll gates (3) market collections & requests orders in the matter

NOTES AND ORDERS.

E

Of the three items referred to by the Audit Dept on which local cess is levied, only one viz levy of cess on tolls is authorized by Govt (vide G.O.No R 593-608, R 766-94 dt 29-7-02).

NOTES—First Sheet.

G. R S. III-2]

General and Revenue Secretariat.

Zb File No. 97 of 1913.

Serial No.

But in the case of the other two items viz (1) sale proceeds of manure + (2) market collections there is no Govt order authorising the levy of local cess on them.

2 - Govt have also directed that the income derived from tolls on Dt Funds Roads which was formerly appropriated by the State as an item of State revenue should be handed over to the Dt Funds and from 1895 the local cess levied thereon was also assigned entirely to them (vide Govt No 2524-5 ZZ185-94 dated 25th August 1895). This order has not been handed over to the Auditor

3 - Submitted for orders.

This must be held to be superseded by the later order dt 29 July 1902 HM

C

27/1 27/1/20 3 The point raised is one of some importance viz. whether these two items can be levied on items of collections directly credited to Dt Funds proper

NOTE—Contn. sheet.

5250. 3 (3)

G. R. S. III-2]

General and Revenue Secretariat. | L.B. File No. 97 of 1919.

Serial No.

The levy of cess on sale proceeds of manure and market collections appear to be unauthorised. With GO dated 29 July 1902 Flag E. Regard the cess on tolls, this Govt order appears to authorise the levy as the tolls mentioned in para 5 of the order include those levied at Dt Fd as well as provincial roads.

HM 2-2-20

Sec Secy.

It Local cess does not seem justifiable in the case of those items of revenue which are credited to the District Funds direct as Dt Fund Revenue. In this view, the cess on sale of manure, market collections & tolls on Dt Fd Roads should be discontinued at once. A general order to this effect may issue.

HM 3.2.20

2nd member

3900 3.2.20

Papers Bd. what is.

NOTE—Contn. sheet.

G. R S. III-2]

General and Revenue Secretariat.

My File No. 97 of 1919.

Serial No.

the meaning of clause xi of sec 23 L B V R. Cannot the levy be justified under that clause.

7/2

6. The Legislative Section of the Chief Secy may be asked to put up the file connected with the Regulation or to furnish the the meaning of the cl called for by the Member

10/2

7 The levy of the tax on tolls on Dt Rd roads can it seems be justified under cl 1(i) of Sec 23 L.B. Regn as the G.O. dat 29 July '02 authors it. The question now it is apprehended is one of principle. Perhaps the discussions on Sec 23 may shed some light on the point. The Legis Branch may be consulted.

Rev. Secy)

8. As right 21.2.20

9 To the Legis. Branch for a note

Please put up the copy of the Regn

Submitted. Hon S

11/2

15425

10/2

11.2

21.2

GOVT. OF MADRAS. 23 FEB 1920

NOTE—Contn. sheet.

G. R. S. III-2]

15425 5250 5

General and Revenue Secretariat.

G B File No. 8, of 191 9.

Serial No.

10 Submd. with Legs' file 67-16 & a copy of the Regn. There is no discussion in the file on S. 23. It is for consideration whether the cess in question may be ~~justified under~~ brought under clause (1) (xi) of S. 23 when there is no provision in the Regn. to levy the cess.

8/2/19

29/2

(Clauses (1), (xi) of S. 23 does not seem to authorise the levy of the cess.

D. M. 12/3

(Rev. Secy.)

12 Submitted with reference to para 5 supra

13/3 Rev. Secy.

19.3.

13. Sanction of the same opinion as already noted at para (4) above.

(2nd member)

20.3.20

R.T.O.

NOTE—Contn. sheet.

5650 6

6

G. R. S. III-2]

General and Revenue Secretariat. | LB File No. 91 of 1919

Serial No.

6088-141
20-3-1920.

14. I agree with the Rev. Secy. I do not think the levy is regular & that it can brought under the terms of Sec 23 / xi of the L.B. & T. Phys.

Rec
22.3.20.

15. Put up draft as indicated in Rem 14.

23.3.20

16 Submitted with draft for approval.

24/3

Rev. Secy.

26.3

17. H. opinion may also be taken before issue of orders.

26.3.20

2367-19

(Fin. Secy.)

18. I have no remarks to offer.

3/4/20

Rev Secy)

19. Subd. May the draft already approved by the Secy issue?

5.4.20

Rev Secy)

5.4.20

NOTE—Contn. sheet.

5250

G. R. S. III-2]

General and Revenue Secretariat. | File No. 97 of 1919

Serial No.

(20) The draft order rule, if abbd, issue —

(2nd member)

8/4/20

6444-154
8-4-1920.

(21) Draft approved

10-4-20

(22) For orders if the draft may issue

(Rev. Secy)

12.4.

(23) For perusal before issue, as the order is of general application and involves a point of principle

(Dewan)

12.4.20

DEWAN'S OFFICE.
Recd. on APR 12 1920
Reg. No. 7046

(24) Yes. may be circulated to the members also if it falls under cl. IX of our Standing Order

14.4.20

15
16/4/20

Subd to 1st & 3rd members

15.4.20

(25) While the opinion of the Govt. awaits for

(Mr. Coirnell)

17.4.20

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

File No: 8 of 191

Serial No.

U. O. No. 123
22.4.20

294.3

Rev Sec'l
29 1920 (11)

U. O. No. 90 19-20

(27) Forwarded unofficially to the Govt Advocate for favour of opinion.

By order,

H V Ramanathan
for Secy to Govt
Rev Secy

(28) The Main Scheme of the Local Boards Regn of 1902 was not to give power under the Regn itself to D. Bds to impose or levy any local rates or Cesses themselves. But Certain items of revenue imposed by other laws, or rules having the force of law were made over to D. Bds to meet their Expenses & such funds Constituted the finances of the D. Bds (See Sec 20 of Reg II of 1902).
[In this respect the Scheme of the Municipal Regn is different. Cf Sec 59 of the Mun. Regn VII of 1906 which empowers Municipal Councils to impose taxes & Cesses].

(29) By orders of Govt passed from time to time, the levy of Certain fees & tolls & some other items ref. to in Sec 20 of Regn.

NOTE—Contn. sheet.

Serial No.

II of 1902 was implicitly vested in Dt. Bds. subject to ~~rest~~ restrictions & conditions imposed by Govt.

(30) To the list of collections thus implicitly entrusted to Dt. Bds. other items of income were from time to time added - Eg.

(a) Certain items of License Fees & tolls } Under sub sec: 5 & 6 of sec 20(1) read with sec 31 A(1)(b) & (2) by Reg: X of 1911

(b) Railway Cess } Under sub sec I(a) of sec 20(1) by Reg: V of 1914

By sec 24 of the Consolidation Reg: of 1918 the Dt. Bd. is given subject to restrictions & conditions imposed by Govt. express authority to levy Railway Cess & and the Cess for guaranteeing loans, and the other collections, whether levied by the Dt. Bds under the implied power given ~~to~~ under sec 23 read with sec 38 of the Reg: of 1918, or by other agencies of Govt, continued to be items of revenue credited to the Dt. Funds.

(31) If therefore there is any cess which the Dt. Bd. is not authorised to levy under the L.B.Ds. Reg: either expressly

NOTE—Contn. sheet.

G. R. S. 111-2]

General and Revenue Secretariat.

LB File No. 97 of 1919.

Serial No.

under Sec 24 or implicitly under Sec 23 the authority for the levy of it must be looked for outside the Regn. - And if by other laws or rules having the force of law Govt. can & does impose other kinds of tax independently of the L. Bds Regn. that power is left uncontrolled by the provisions of the Regn. -

(3rd) The order of Govt. passed in the year 1902 has the force of law, because it was passed before the Mysore Legve Regn. I of 1907 came into operation and at a time when Govt. promulgated such rules either in the form of Executive orders or in the form of Regulations - Under that order Cess on tolls was continued but the Cess levied on the sale proceeds of manure was abolished - The levy of the latter Cess since then is unauthorised but not the former. The levy of Cess on market collections is also unauthorised as there is no law or order having the force of law by which such a levy could be supported -

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

LB File No. 97 of 1919

Serial No.

(33) From the order of Govt. proposed to be now issued I find that the levy of Cess on the 3 items in question is considered unauthorised on the ground that those items of income are directly credited to the Dt. Funds. If it is to be understood by the expression 'directly credited' that the Dt. Bds themselves levy these items as part of their revenues, the order may perhaps require reconsideration, as for example in the case of tolls according to the practice prevailing for many years past they are collected by the contractor to whom the right to collect is sold & the Cess on the total sale amount is levied from the contractor irrespective of the amount of tolls actually collected, at the toll gates: [See para 6 of the G.O of 1902 in which it is distinctly stated that in addition to the contract amount, the contractor should pay also the Cess on the said amount]. Similarly in the case of the other two items it is I presume the right to 'collect' that is sold & the

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

5250 12

File No. 97 of 1919

Serial No.

Cess is levied from the Contractor to whom the right is sold. But as the Collection of the Cess on these two items is not supported by any rules or orders having the force of law they may be discontinued.

(34) If it is permissible for me to state I would omit in the proposed G.O. the words "the levy is un-authorised" as such an admission may possibly make the agency, that unauthorised levied it liable in action to refund such amount as may not be barred by time. Further it is undesirable that publicity should be given specially to the fact that an un-authorised levy was all these years countenanced by the authorities.

27.4.20.

(35) Submitted with reference to paras 25 & 26 supra

29/4.1920 (86) (First Member)

Agree with the draft letter revised as above recommended by J.S.

52 4.5.20

4.5.20

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | LB File No. 97 of 1919.

Serial No.

6307
10/5/20

(3rd member)

7.5.20

(37) I wd. ask. that my query (see para 5) has not been answered.

14/5

(2nd member)

14.5.20

7053-261
15-5-1920.

(38) The draft may be revised on the lines indicated by the Govt. adv.

16.5.20

rule draft

(39) The lines in which the draft may be revised are indicated in a separate slip of paper submitted for approval or other orders

pad
18/5/20

40 Revised draft put up.

Rev Secy

21-5-20

(2nd member)

2.6.20

7335-60
4-6-1920

(41) Draft approved

6.6.20

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

RB File No. 97. of 191 9

5260

14

Serial No.

(42) A D.F.N. and D.S.N. are necessary. Vide orders at para 25.

hm 9.6.20

(43) Two drafts (D.F.N + D.S.N) are submitted for approval.

J Rev Secy

15/6/20

88 9.6.20

88 16/6/20

DEWAN'S OFFICE.
Recd. on JUN 22 1920
Reg. No. 8320

hm 17.6.20 88

Jgmt member
& Dewan

7601-65.
18.6.20.

D.F.N approved

Rel 19.6.20 hm

NOTE—Contn. sheet.

Final Note by the Second Member of Council.

Subject:—

Discontinuance of the levy of local cess by the District Boards on certain items directly credited to the District Funds.

These papers relate to the question whether it is legal to levy local cess on items of revenue directly credited to District Funds.

2. In Government Order, No.2524-5/L.F.185-94 dated 21st August 1895, it was ordered that the local cess levied on tolls made over to the District Boards be credited to the District Funds, and, on the authority of Government Order, No. R. 593-68/R.E.66-94 dated 29th July 1902, the District Board of Mysore has been levying local cess on (1) toll levied at District Fund toll gates (2) sale proceeds of manure and (3) market collections. The President of the said District Board brought to the notice of Government that, during the audit of the District Fund Accounts for the year 1917-18, the levy of the local cess on the aforesaid items was objected to by the Audit Department, and requested definite orders in the matter.

3. As there is no provision in the Local Boards Regulation, and the rules framed thereunder, authorising the levy by the District Board of the local cess on these items, which are directly credited to the District Funds, the question as to whether the levy may be discontinued was referred to the Members of Council for opinion. The Government Advocate, who was also consulted as to the legality of the levy, is of opinion that it is unauthorised.

Pages 8 to 12 of Office Notes.

4. I agree, along with my colleagues, with the view of the Government Advocate. The draft Government Order which has accordingly been prepared may be graciously approved.

Pages 12 & 13 of do — Draft for approval

P Raghavendra Rao
19.6.20.

19th June 1920.

MEMBER OF COUNCIL.

Submitted to His Highness.

...

I submit herewith a Final Note by the Second Member of Council on the subject of the discontinuance of the levy of local cess by the District Boards on certain items directly credited to the District Funds, for His Highness' gracious approval.

[illegible]

23rd June
1920

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

No. 1233
23-6-20

Discontinuance of the levy of local cess by the District Boards on certain items of revenue directly credited to the District Funds.

1137

Order.

KRW
26/6/20

Rev Secy
Cell

27.6.20

D.7

Jonce
28.6.20

G. R. S. III-2]

5252

General and Revenue Secretariat.

LB File No. 97 of 1919.

Serial No.	
2	To The President, Dist Board, Mysore The D.C.S. of other Dts. The Comptroller to Govt. no 88-96 dated 3.7.90. Directs that in future no local cess shall be levied on the several items of income credited to Dt Funds,

B

NOTE—Contn. sheet.

Dno 5250 19-1-20

Office of the President, District Board,
Mysore District,
Dated, Mysore, the 16th January 1920.

No. Lb 97-19-1

From

P. F. Bowring, Esquire,
President, District Board of Mysore,
Mysore.

To

B. Ramaswamayya, Esq., B.A., B.L.,
Secretary to the Government of H. H.
the Maharaja of Mysore, Revenue Department,
Bangalore.

Sir,

In enclosing a copy of the objection statement relating to the audit of the District Fund Accounts for the 1917-18, I have the honour to state that objection has been taken to the levy of local cess on (1) the sale proceeds of manure (2) the toll levied at District Fund Toll-gates and (3) market collections as these items of income are directly credited to District Funds. The Local Boards Regulation and the Rules framed thereunder do not however contain any provision authorising the District Board to levy local cess on the ~~sele~~ above items. The System has been in vogue from along time inasmuch as the levy of toll on toll contract etc., has been generally authorised in Government Order No.R.59[illegible]-608/R.F.66-94 dated 29th July 1902 and subsequent Government order No.R.4598-614/R.F.66-94 dated 16th June 1903. It is doubted by the audit Department whether the District Board has got the power of levying Local Cess on items of revenue which are directly credited to District Funds. I have the honour to request that orders of Government may be obtained in the matter.

I have the honour to be,
Sir,
Your most obedient servant,

PRESIDENT,
District Board of Mysore.

18263

From

The President,

District Board of Mysore,

Mysore.

To

The Secretary to the Government of

H. H. the Maharaja of Mysore,

Revenue Department, Bangalore.

Dated 16th January 1920.

Despatched 16th January 1920.

Received.

Ch Se

General No C 2880 LB / 18-19

Enclosure No.

Subject.

Soliciting instructions re the levy of Local Cess on the Sale of Manures as the same are objected to by the Audit Department.

Mr PAS

Objection statement on the examination of the Mysore District Fund Accounts for the year 1917-18.

Sl. No.	Description of item.	Amount placed under objection.	Remarks of the Auditor.
	Local Cess at one anna in the rupee is levied in this District on Toll contract amount and also in a few cases of sale proceeds of manure both of which are credited to District Funds direct as District Fund Revenue. The District Fund is formed of 76% of Cess on land revenue and other items which may from time to time be granted by Government, besides the collections from Tolls and markets which are directly credited to District Funds as District Fund Revenue. The very fact that the District Fund is formed mainly of 76% of Local Cess on certain items of General revenue implies that no cess is leviable on other items of collections, such as Tolls and markets collected as District Fund Revenue and credited to District Funds direct. Moreover the items on which cess is leviable are defined in the G.O.No.R. 593-608/R.F.66-94 dated 27th July 1902 wherein no mention is made of items of District Fund collections on which cess		Whether Cess can be levied legally as at present on Tolls and manure is not free from doubt. It seems therefore necessary that definite orders of Government should be obtained in the matter.

Sl. No.	Description of item	Amount placed under objection.	Remarks of the auditor.
	can be levied as in the case of Land Revenue.		

" C O P Y "

For President,

District Board of Mysore.

S.O. 12 copies

LB 97-19-2

Proceedings of the Government of
His Highness the Maharaja
of Mysore.

Read

G. O. No. 2524-5/L. F. 185-94 dated 21st August 1895 directing that the local cess on tolls made over to the District Local Funds should be credited to the District Local Funds.

2. G. O. No. R. 593-608/R. B. 66-94 dated the 29th July 1902 directing the levy of local cess on toll contract and other miscellaneous items of income.

3. Letter No. C. 2830/L. B. 18-19 dated 16th January 1920 from the President District Board, Mysore, enquiring whether local cess can be levied on (1) the sale proceeds of manure, (2) tolls levied at District Fund toll gates and (3) the market collections, in consideration of the fact that these items of income are directly credited to the District Funds.

(Print in extenso with accompaniments).

May this be

i Printed ? yes

treated as a standing order ? yes

published in the Gazette, English Part ? yes

translated ? yes

v placed at the disposal of the press ? yes

vi published in the Gazette, Kannada Part ? yes

25/6/20

Order No. R. 88-96

Dated, Bangalore the 3-7-20.

As the items of income specified in the letter read above are directly credited to the District Funds, Govt are pleased to order that in future no local cess shall be levied on them.

For Secy to Govt.
Revenue Department.

To-The President, District Board, Mysore
Deputy Commrs & Presidents of D. Bs.
The Comptroller to Government.

Rec 6.6.20

2.6.20

Fair Sup

copy to Rev Dept